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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 KATHLEEN MARY JONES,

No. C 06-3606 JCS (MEJ)

9 Plaintiff(s),

**ORDER SETTING DEADLINE RE:
DISMISSAL OF STATE LAW CLAIM**

10 vs.

**ORDER SCHEDULING HEARING RE:
STATUS**

11 LVR HOLDINGS,

AUGUST 14, 2008 AT 10:00 A.M.

12 Defendant(s).
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14 On July 3, 2008, the Court held a hearing regarding the status of the parties' settlement
15 agreement. Gavin McGrane appeared on behalf of Plaintiff Kathleen Mary Jones. Defendant
16 Richard Cutshall failed to appear, and the Court was unable to contact him by telephone. The Court
17 was also unable to reach Scott Kenard, counsel for Third Party Ford Motor Credit Company
18 ("Ford").

19 At issue was whether Mr. Cutshall made a final payment to Ford under the terms of the
20 parties' agreement. Although Mr. Cutshall provided Ford a personal check in May, that check did
21 not immediately clear, and its status is uncertain at this point. On June 19, 2008, Mr. McGrane filed
22 a letter stating Plaintiff's position that there is no settlement because Mr. Cutshall failed to make the
23 required payment, and Ford has failed to dismiss its state court lawsuit against her. At the July 3
24 hearing, however, Mr. McGrane argued in the alternative that by accepting Mr. Cutshall's personal
25 check, Ford has been paid under the settlement agreement, and its only remedy is to bring a claim
26 directly against Mr. Cutshall.

27 In an effort to keep the parties' settlement agreement intact, the Court shall give a final
28 opportunity for Mr. Cutshall to ensure that payment is made, via clearance of the personal check or

1 other means. Thus, Ford has until August 13, 2008 to dismiss its state court lawsuit against
2 Plaintiff.¹ If Ford has not dismissed its state law claims, the Court shall either immediately vacate
3 the settlement and refer this matter to Magistrate Judge Spero for disposition, or order briefing from
4 the parties' regarding Mr. McGrane's argument at the July 3 hearing.

5 The Court shall conduct a status hearing on August 14, 2008 at 10:00 a.m. in Courtroom B.
6 **All parties are required to attend the hearing. If any party wishes to appear by telephone, that**
7 **party shall provide a toll-free number at which they may be reached by August 13, 2008.**

8 **FAILURE TO COMPLY WITH ANY PART OF THIS ORDER BY ANY PARTY**
9 **MAY RESULT IN THE IMPOSITION OF SANCTIONS.**

10 **IT IS SO ORDERED.**

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12 Dated: July 3, 2008

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15 MARIA-ELENI JAMES
16 United States Magistrate Judge
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27 ¹ Although the Court stated August 14 at the hearing, that is the date of the further hearing and
28 any action must take place before then.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KATHLEEN MARY JONES,

Case Number: CV06-03606 JCS

Plaintiff,

CERTIFICATE OF SERVICE

v.

LVR HOLDINGS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Richard Cutshall
254 Onslow Place
West Vancouver, BC V7S 1K5

Robert Scott Kennard
Nelson & Kennard
2180 Harvard St, Suite 160
Sacramento CA 95815

Dated: July 3, 2008

Richard W. Wieking, Clerk
By: Brenda Tolbert, Deputy Clerk

United States District Court
For the Northern District of California